



Crl.A.No.313 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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Saravanan @ Senthil Kumar

... Appellant

Vs

1. The State by
The Inspector of Police,
Keezhapazhur Police Station,
Ariyalur District.
(Crime No.37 of 2013).

2. Satheesh
3. Rajkumar
4. Natarajan

... Respondents

Prayer:- Criminal Appeal filed under Section 372 & 378(1)(b) of Criminal Procedure Code, to call for the entire records in Sessions Case No.47 of 2017 on the file of the learned Principal District & Sessions Judge, Ariyalur and to set aside the judgment dated 02.03.2018 passed by the learned Principal District & Sessions Judge, Ariyalur in Sessions Case No.47 of 2017.



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For Appellant	: Mr.K.M.Arun For Mr.S.Senthil
For Respondents	
For R1	: Mr.A.Gopinath Government Advocate (Crl.Side)
For R2 to R4	: Mr.J.Pachiyappan

JUDGMENT

This Criminal Appeal is arising out of the judgment dated 02.03.2018 passed in S.C.No.47 of 2017 on the file of the learned Principal District & Sessions Judge, Ariyalur, thereby acquitting the respondents 2 to 4 from the charges under Sections 294(b), 323, 506(ii) of IPC and Section 3(1) of the Tamil Nadu Property (Prevention of Damages & Loss) Act 1992 (herein after referred to as “the TNPPDL Act”).

2. The case of the prosecution is that on 09.02.2013 at about 12.00 noon, the accused entered into the appellant's cattle shed and damaged the asbestos sheet with wooden log and when the appellant was intervened and questioned the same, the respondents 2 to 3 assaulted him and threatened him with dire consequences by showing weapons and also abused him with unparliamentary words. On the complaint, the first



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respondent registered the FIR in Crime No.37 of 2013 for the offences under Section 294(b), 323, 427, 506(i) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in S.C.No.47 of 2017 by the trial Court for the offences under Sections 294(b), 323, 506(ii) of IPC and Section 3(1) of the TNPPDL Act.

3. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.6 and marked documents as Ex.P.1 to Ex.P.9. The prosecution also produced material objects in M.O.1 & M.O.2. On the side of the respondents 2 to 3, no one was examined and no documents were marked. On a perusal of oral and documentary evidences, the trial Court found that the accused not guilty and acquitted them. Aggrieved by the same, the complainant filed this present appeal.

4. The learned counsel appearing for the appellant, submitted that the trial Court acquitted the respondents 2 to 4 herein for the reason that the occurrence took place on 09.02.2013, whereas the complaint lodged only on 20.02.2013 and the prosecution failed to explain the



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inordinate delay in the lodgement of FIR. In fact, on the date of occurrence viz., on 09.02.2013 itself, the appellant lodged complaint and he was issued C.S.R.No.70 of 2013. After conducting enquiry and after obtaining opinion from the Government Pleader, the first respondent registered the FIR and therefore, there is absolutely no delay in lodgement of complaint.

4.1. He further submitted that the trial Court failed to note that the appellant sustained injury on the assault committed by the respondents 2 to 4 herein. Though no doctor was treated the appellant and no doctor was examined by the prosecution, the occurrence was taken place and the respondents 2 to 4 herein also attempted to set fire to the paddy straw. In order to prove the charges, the appellant himself examined as P.W.1 and other witnesses are examined as P.W.2 to P.W.6. There the trial Court ought to have convicted the respondents 2 to 4 and prayed to allow this appeal.

5. Heard Mr.K.M.Arun, learned counsel appearing for the appellant, Mr.A.Gopinath, learned counsel appearing for the first



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respondent and Mr. J. Pachiyappan, learned counsel appearing for the respondents 2 to 4.

6. On a perusal of record revealed that the appellant is in possession and enjoyment of the poramboke land in which he put up a cattle shed with temporary asbestos sheet. While being so, on 09.02.2013, according to the appellant, the accused persons trespassed into his property and damaged the cattle shed and the asbestos sheet. When it was questioned by the appellant, he was assaulted by them and also threatened with dire consequences.

7. On a perusal of the complaint dated 09.02.2013 revealed that the accused persons came to the place of occurrence and damaged the cattle shed and also asbestos sheet. There was no allegation to the effect that they had assaulted the appellant. Whereas he deposed in his deposition that the accused persons had beaten him and he had taken treatment from the doctor. There is no iota of evidence to show that the appellant was admitted in the hospital or taken treatment as out patient. No doctor was examined by the prosecution or no accident register was



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recorded by any doctor.

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8. That apart, there was a civil suit pending in respect of the subject property between the appellant and the respondents 2 to 4 herein. Though the trial Court recorded that there was a delay in lodgement of complaint, on perusal of record revealed that on the date of occurrence viz., on 09.02.2013 itself, the complaint was lodged by the appellant, which was marked as Ex.P.1 and immediately he was issued CSR number, though it was registered only on 20.02.2013.

9. Admittedly there was no injury and no independent witness had spoken about that the respondents 2 to 4 scolded the appellant and also threatened him with filthy language and dire consequences. Therefore, the prosecution failed to bring the charges to home as against the respondents 2 to 4 for convicting them. Hence, the trial Court rightly acquitted the respondents 2 to 4 and this Court finds no infirmity or illegality in the order passed by the Court below.

10. Accordingly, the Criminal Appeal stands dismissed and the



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judgment dated 02.03.2018 passed in S.C.No.47 of 2017 by the learned
Principal District & Sessions Judge, Ariyalur, is hereby confirmed.

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Index:Yes/No

Internet:Yes/No

Speaking/Non-speaking order

rts

To

1. The Principal District & Sessions Judge,
Ariyalur.
2. The Inspector of Police,
Keezhapazhur Police Station,
Ariyalur District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.,

rts

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